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IN THE

Supreme Court of the United States

OCTOBER TERM, 1975

No. 75-1491

PACIFIC LEGAL FOUNDATION and PUBLIC LANDS COUNCIL, INC., *Petitioners,*

v.

NATURAL RESOURCES DEFENSE COUNCIL, INC., et al.,

and

THOMAS KLEPPE, SECRETARY OF THE INTERIOR and CURTIS BERKLUND, DIRECTOR OF THE BUREAU OF LAND MANAGEMENT, *Respondents.*

MOTION TO FILE BRIEF AMICUS CURIAE AND BRIEF AMICUS CURIAE

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June 4, 1976

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The New Mexico Cattle Growers' Association, Colorado Cattlemen's Association, Montana Public Lands Council, Montana Stock Growers' Association, Montana Wool Growers' Association, Oregon Cattlemen's Association, Idaho Wool Growers' Association, Arizona Public Lands Council, Wyoming Public Land Users' Coordinating Committee, Utah Cattlemen's Association, Colorado Wool Growers' Association,

Utah Wool Growers, Central Committee of Nevada State Grazing Boards, Nevada Wool Growers, Nevada Cattlemen's Association, Nevada Land Action Association, Arizona Cattle Growers' Association, and the American National Cattlemen's Association hereby respectfully move for leave to file the attached Brief Amicus Curiae in this case. The consent of the attorneys for the Petitioners has been obtained. The consent of the attorneys for Respondents was requested but had not been obtained as of the preparation of this Motion and Brief.

The interest of the various associations in this case arises from the fact that their constituent members are the users of the public land administered by the Bureau of Land Management under the Taylor Grazing Act in the western states.

In the instant case the Court of Appeals has held that the Bureau of Land Management must issue environmental impact statements with regard to the issuance of permits under the Taylor Grazing Act for grazing on Bureau of Land Management administered land. It is believed that the requirement of environmental impact statements will have a direct effect on the members of the various associations by resulting in an increase in the fees paid for use of the land. Furthermore, it is believed that the drain on the resources of the Bureau of Land Management for the preparation of environmental impact statements will adversely effect the congressionally mandated conservation program which is paid for out of the fees charged the users of the land. As the matter presented by the Petition for Writ of Certiorari requires this Court to resolve the conflict between acts of Congress, it is believed that the Brief which Amicus Curiae is

requesting permission to file will show why the Taylor Grazing Act is sufficient as an environmental control law.

Respectfully submitted,

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TABLE OF CONTENTS

Page

INTEREST OF AMICUS CURIAE 1

SUMMARY OF ARGUMENT 2

ARGUMENT:

Point I: The History and Purpose of the Taylor Grazing Act Indicate It Is Environmental Legislation and Therefore Ought Be Exempted From Provisions of the National Environmental Policy Act 3

Point II: The Economic Impact of Requiring Environmental Impact Statements Will Be Harmful to the Livestock Industry and Public at Large and Contrary to the Provisions of the Taylor Grazing Act 12

CONCLUSION 18

CITATIONS

CASES:

Aberdeen & Rockfish R. Co. v. SCRAP, 422 U.S. 289 (1975) 12

Anaconda v. Ruckelshaus, 482 F.2d 130 (10th Cir. 1973) 12

Calvert Cliff's Coordinating Comm. v. United States Atomic Energy Comm'n., 449 F.2d 1109, 1123 (D.C. Cir. 1971) 12

Environmental Defense Fund Inc. v. Environmental Protection Agency, 489 F.2d 1247 (D.C. Cir. 1973) 12

Getty Oil Co. v. Ruckelshaus, 467 F.2d 349 (3d Cir. 1972), *cert. denied,* 409 U.S. 1127 (1973) 12

Hatahley v. United States, 351 U.S. 173 (1955) 10

International Harvester Co. v. Ruckelshaus, 578 F.2d 615 (D.C. Cir. 1973) 12

Page

Natural Resources Defense Council, Inc. v. Morton, 388 F. Supp. 829 (D.D.C. 1974) 9

Portland Cement Association v. Ruckelshaus, 486 F.2d 375 (D.C. Cir. 1973), *cert. denied*, 417 U.S. 921 (1974) 12

Red Canyon Sheep Co. v. Ickes, 98 F.2d 308 (D.C. Cir. 1938) 10, 13

United States v. Fuller, 442 F.2d 504 (9th Cir. 1971), *rev'd on other grounds*, 409 U.S. 488 (1973) 10

UNITED STATES STATUTES:

National Environmental Policy Act of 1969, 42 U.S.C. § 4321, *et seq.* 9, 11

Homestead Act, 12 Stat. 392 4

Taylor Grazing Act of 1934, 43 U.S.C. § 315, *et seq.* 4, 9, 13, 14, 17

Taylor Grazing Act of 1934, 48 Stat. 1269 8

MISCELLANEOUS:

Carpenter, *The Public Domain in Colorado*, 13 Rocky Mt. L. Rev. 295, 297 (1941) 3

Clawson and B. Held, The Federal Lands (1957) 13

Clawson, *Economic Considerations in Arid Land Use* in Public Land Policy (Foss ed. 1968) 4

Federal Range Code for Grazing Districts, 43 C.F.R. Parts 4110, *et seq.* 10

Foss, P., Politics and Grass (1960) 4, 5, 6, 10

McMillan, *Problems in Grazing Use of the Public Lands*, in Public Land Policy (Foss ed. 1968) 16

Neilson and Wennergen, *Public Policy and Grazing Fees on Federal Lands: Some Unresolved Issues*, 5 Land and Water L. Rev. 293, 313 (1970) 16

Penny and Clawson, Administration of Grazing Districts in The Public Lands, 461 (1968) 4

Page

Public Land Law Review Commission, One Third of the Nation's Land (1970) 10, 13, 14, 16

Taylor Grazing Act of 1934, S. Rep. No. 1182, 73d Cong. 2nd Sess. (1934) 8

41 The New Mexico Stockman (May 1976) 17

Turcott, *Beginning at Challis*, Our Public Lands (Winter 1976) 11

U.S. Dept. of Interior (BLM) 26 Our Public Lands (Spring 1976) 15

U.S. Dept. of Interior (BLM) Public Land Statistics 86-87 (1974) 15

USDA "Opportunities to Increase Red Meat Production from Ranges of the United States" (June 1974) 10, 17

USDA "Grazing Fees and Permitted Use of Public Rangelands on Income of Western Livestock Ranches" (Pamphlet No. 248) (1965) 15, 17

W. Calef, Private Grazing and Public Lands (1960) 13, 14, 17

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BRIEF AMICUS CURIAE

INTEREST OF AMICUS CURIAE

The New Mexico Cattle Growers' Association is representative of the organizations joining in this brief. The New Mexico Cattle Growers' Association is a nonprofit private organization which represents the interest of a majority of those in the livestock industry in the State of New Mexico and in surrounding states. There are over 12 million acres of land within Bureau of Land Management grazing districts in New Mexico

alone representing almost half of the 26,347,265 acres of land in the whole state.

In 1973, there were over seventeen hundred livestock operators utilizing these grazing lands upon which over 400,000 cattle, horses and sheep were raised in the second largest industry in the state. Over $2,472,065 were returned to the state from the collection of grazing fees and leases issued by the Bureau of Land Management. Much of this amount was used for range-land improvements. Therefore the New Mexico livestock industry has a vital interest in the environmental and economic impacts that may arise out of the present case. The New Mexico Cattle Growers' Association believes that requirement of environmental impact statements is incompatible with the provisions of the Taylor Grazing Act and against the environmental and economic interests of the livestock industry, local governments, and the consuming public.

SUMMARY OF ARGUMENT

1. In the case before the Court the Bureau of Land Management has been required, pursuant to the National Environmental Policy Act, to prepare environmental impact statements. The history and purpose of the Taylor Grazing Act amply indicate the regard Congress has had in the past for environmental protection of the grazing lands, which concern has recently been expressed by the National Environmental Policy Act. Indeed, the Taylor Grazing Act is first and foremost an environmental act which supplies the "functional equivalent" of an environmental impact statement. Therefore the requirement of environmental impact statements by the Bureau of Land Management concerning grazing lands is unnecessary and in-

applicable to the grazing lands managed by the Bureau of Land Management.

2. The economic and environmental impact of the requirement of environmental impact statements is so severe that a substantial federal question exists as to the appropriateness of requiring such impact statements. The obligation to do so will result in extensive economic and environmenal damage to the livestock industry, the range-lands and to the public contrary to the express purposes of both the Taylor Grazing Act and the National Environmental Policy Act.

ARGUMENT

I.

The History and Purpose of the Taylor Grazing Act Indicate It Is Environmental Legislation and Therefore Ought Be Exempted From Provisions of the National Environmental Policy Act.

Conflicts in the uses to be put to the land are not new problems which have surfaced only within the last decade. Indeed, history is replete with land use conflicts which have been settled by battle, by legislation, by the courts, or which remain yet unresolved. As F. R. Carpenter, the first Director of the Division of Grazing of the Bureau of Land Management, wrote:

> Ancient precedents for such conflicts are found in the Bible where 'Abel was a keeper of sheep but Cain was a tiller of the ground, and Cain rose up against his brother and slew him,' and the contest for pastures confronted Abram and Lot in Ancient times when 'the lands were not able to bear the flocks and herds' of the two stockmen 'and there was strife between the herdsmen of Abram's cattle and the herdsmen of Lot's cattle.'
>
> Carpenter, *The Public Domain in Colorado,* 13 Rocky Mt. L. Rev. 296-97 (1941)

Today, not only is there concern for conflict resolution between persons' rights to the use of particular parcels of land, but also an additional concern for the environmental impact individual uses may have upon the land, air, and water involved in the ecosystem surrounding the land parcel. The Taylor Grazing Act of 1934 (43 U.S.C. §§ 315 *et seq.*) was and remains a response to these concerns. It is at the same time a conservation and an economic measure which serves to make the best possible use of public land and preserve and protect it as well.

The public lands or "public domain" originally included all land that was owned by the United States government not previously reserved to some other use, such as national parks or national forests which was subject to disposal by the government. As a young nation the sale of public domain was a revenue producing source for the federal government with no thought to orderly settlement of the frontier. Foss, P., Politics and Grass 14 (1960). Later, the first Homestead Act, 12 Stat. 392, was passed by Congress which provided 160 free acres of land to those who would settle upon it for five years and make certain improvements. As the population moved westward into the arid regions, however, the 160 acre limitation became economically impractical to sustain the homesteading farmer. Clawson, *Economic Considerations in Arid Land Use,* Public Land Policy 159 (Foss ed. 1968). Between 1865 and 1890, hundreds of thousands of cattle occupied most of the western open range comprising the public domain. Penny and Clawson, *Administration of Grazing Districts,* The Public Lands 461 (1968).

Despite congressional attempts to encourage farming by allowing greater acreage to homesteaders, the land was not suitable for cultivation. (Foss, Politics and Grass, *supra* at 27). Ultimately, the open range being used by cattlemen was also subjected to use by the homesteader whose grant of land was so small that it necessitated encroaching upon the remaining public domain. A few cattlemen controlled the limited resources in the public domain and consequently much of the surrounding land was rendered useless unless adjacent to areas of water.

Rectangular land surveys, which had been utilized in the development of the East, could not be used in the West because of the lack of water in most rectangular parcels. Huge, vacant pieces of land would then be left unclaimed by the homesteader. Thus, the range remained open public domain virtually under the control of stockmen. (Foss, Politics and Grass at 28).

Overgrazing resulted from the excessive use by the homesteader of his own parcel and from the unrestricted use of the open range by cattlemen, sheepmen and homesteaders who competed fiercely with one another for control of the rangeland. (Foss, Politics and Grass, at 31). The public land policies enacted by Congress theretofore caused serious damage to the rangeland.

> " . . . Public land policies forced overgrazing upon the stockman and homesteader. The homesteader, as we have seen was given a plot of land too small to support a family. He overgrazed his homestead first, then he turned his cattle loose on the public domain to compete with the older stockmen for the range. They, in turn competed with the sheepmen, and all were forced to overgraze.
> * * * *

But another result of these policies was possibly even more serious—the destruction of the range by plowing. As we have seen, the homestead laws were drafted and passed by a Congress which considers stock raising to be only the advance guard of farming.

* * * *

Federal land policies encouraged the removal of the plant cover of the range by plowing and overgrazing. The results of the removal of this protective cover was an acceleration in the rate of erosion." (Foss, Politics and Grass, at 34-35).

Range land was depleted by as much as 67 percent (Foss, Politics and Grass, at 33-34), but because of competing political interests no ameliorating action was successful until the 1934 Taylor Grazing Act. The Senate Report accompanying the proposed bill recognized the scope of the then existing problem:

"At the present time there are approximately 173,000,000 acres of unreserved and unappropriated public land in the ownership of the Federal Government, situated almost wholly in 11 Western States. The public lands form a vast domain, composing more than one-tenth of the entire area of the United States. Their surface is now and has always been a great grazing common free to all users. The grazing resources of these lands are now being used without supervision or regulation, and there is constant competition among the various users who desire to obtain exclusive benefit of the forage growth. The result of this competitive practice has been lack of proper care and progressive deterioration in the value of the native forage crop, with the attendant evils of soil erosion and removal of protection in drainage areas. It has been estimated that for the open public domain as a whole the yield of forage has

been reduced from one-half to two-thirds during the last 25 years. Without regulation further destruction is inevitable.

Where overgrazing is permitted to disturb the balance of nature, erosion must result, which in turn increases flood hazards and promotes the siltation of irrigation reservoirs and ditches and jeopardizes the water supply for irrigation, urban consumption, and other uses. So ruinous a use of the public domain should not be permitted and, if it is continued, will result in the reduction of these vast areas to eroded and barren wastes.

The situation above set forth is a source of grave national concern, both to Government officials interested in the conservation of the natural resources of the public domain and stockmen whose operations are dependent upon grazing. The stockman desires assured grazing privileges, on the basis of which definite plans for public operations can be adopted, and the Government desires the conservation and wise development of an extremely valuable, natural resource. Since the lands are the property of the Federal Government, it is its responsibility, as well as its right, to protect and improve them, so that they may be put to the highest productive use, to stabilize livestock industry, to protect watersheds, and check erosion.

Much of the remaining open public grazing land, especially the winter ranges, is not susceptible of complete utilization because of inadequate watering facilities, trails, or other necessary improvements. Under the provisions of the proposed bill increased range facilities can be made available, which will in turn have the effect of greatly enlarging the available forage crop to public-range users.

Bills to provide for the orderly use, improvement, and development of the public range have been

before Congress for a period of 40 years but have failed of enactment, with the exception of those measures which created the Mizpah Pumpkin Creek and Owens Valley grazing districts, located in Montana and California, respectively. The bill under consideration was drafted after exhaustive hearings throughout the public-land States and before congressional committees.

Students of the subject are convinced that H.R. 6462 is the most liberal and comprehensive grazing measure ever considered by Congress. It recognizes the duty of the Government to prevent waste and injury to its own property, and will, if enacted, undoubtedly aid in stabilizing the livestock industry. While it will be extremely beneficial to the livestock industry, it also safeguards the interest of the Nation and the public as a whole, in the resources of the public range." S. Rep. No. 1182, 73d Cong. 2d Sess. (1934).

There can be no question but that the Taylor Grazing Act was a conservation measure from the outset. The title to the act was itself an "environmental impact statement":

> "To stop injury to the public grazing lands by preventing overgrazing and soil deterioration, to provide for their orderly use, improvement and development, to stabilize the livestock industry dependent upon the public range, and for other purposes." Taylor Grazing Act of 1934, 48 Stat. 1269.

The Memorandum Opinion of the District Court below has stated that "while Congress has determined that public lands should be put to the best use possible, it has also demonstrated a strong interest in protecting the environment." Record Appendix D, p. 69;

Natural Resources Defense Council, Inc. v. *Morton,* 388 F. Supp. 829, 840 (D.D.C. 1974). Certainly this is true although the interests are not necessarily incompatible. Environmental concern was expressed in 1934 over the use of grazing lands; other federal activity influencing the environment was later subsumed by the National Environmental Policy Act of 1969, 42 U.S.C. § 4321 et seq. (1970) (NEPA). Today the "best use" of land is that which is also environmentally sound. This Congress recognized when it passed the Taylor Grazing Act and made its own findings that the best use of the land was for grazing. The legislation was designed to carry out this function. Section 2 of the Taylor Grazing Act, 43 U.S.C. § 315(a) requires the Secretary of the Interior to protect and improve grazing lands. He is charged with the duty to take necessary action to accomplish the purpose of the Act:

> [N]amely, to regulate their occupancy and use, to preserve the land and its resources from destruction or unnecessary injury, to provide for the orderly use, improvement and development of the range; and the Secretary of the Interior is authorized to continue the study of erosion and flood control, and to perform such work as may be necessary amply to protect and rehabilitate the areas subject to the provisions of this chapter . . . "

The court below suggests that "no thorough analysis has been made of the specific impact of (grazing) activity" (Record App. D p. 69; *Natural Resources Defense Council, Inc.* v. *Morton, supra,* 388 F. Supp. at 840). Yet Congress conducted hearings on the issue before it passed the legislation. Hearings on H.R. 2835, 73rd Cong., 1st Sess. 1 (1933). And Congress decided that grazing was the appropriate use of the

land. *Hatahley* v. *United States,* 351 U.S. 173 (1955); *Red Canyon Sheep Co.* v. *Ickes,* 98 F.2d 308 (D.C. Cir. 1938); *United States* v. *Fuller,* 442 F.2d 504 (9th Cir. 1971), *rev'd. on other grounds,* 409 U.S. 488 (1973). In 1970 the Public Land Law Review Commission appointed by President Johnson issued its report in which an entire chapter was devoted to range resources based upon a study report made to the commission entitled "The Forage Resource." Public Land Law Review Commission, One Third of the Nation's Land, 105 (1970). The U.S. Forest Service conducted one of the most intensive studies of the range lands ever attempted detailing environmental depletion and its effect upon the range. (Foss, Politics and Grass, *supra* at 33.) Also, the U.S. Department of Agriculture had studied the range lands as they relate to meat production. See USDA, *Opportunities to Increase Red Meat Production from Ranges of the United States* (June 1974). Implicit in the responsibility assigned to the Secretary of Interior to "protect" and "improve" range lands is the requirement that environmental factors be considered. In fact, the Federal Range Code for Grazing Districts (43 C.F.R. Parts 4110 *et seq.*) specifically requires:

> The District Manager, after recommendation by the advisory board, will rate the grazing capacity of each unit or acre in a grazing district and will classify each for the proper seasons of use and for the maximum period of time for which any license or permittee will be allowed to use the federal range therein during any one year. 43 CFR 4111.3-1(a).

Thus, continued study of the range must be done to accomplish the stated purposes of the act, and this

ongoing study should suffice to meet the environmental needs as desired by NEPA. The Bureau of Land Management (BLM) has a pervading environmental function. The grazing lands under its jurisdiction can be used for grazing only, and Congress had not authorized alternative uses for the land. An "environmental impact statement" pursuant to NEPA would serve only to examine land use alternatives which Congress has here limited to either grazing or leaving idle. Although the defendants chose not to appeal in this matter, it is quite clear that the BLM was on its own already very environmentally concerned and anxious to continue solving some of the environmental problems of grazing lands:

> Frankly, the preparation of environmental statements was not the approach the Bureau wanted to take. Environmental statements, of themselves, solve no environmental problems, and the Bureau's range staff felt that they could achieve more with less cost and effort by working through the Bureau's planning system. Turcott, *Beginning at Challis,* Our Public Lands at 26 (Winter 1975).

We submit that the purpose of the Taylor Grazing Act and NEPA is the same in that they both seek to protect the environment. The "encouragement of productive enjoyable harmony between man and his environment", the promotion of "efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man", and "enrich(ing) the understanding of the ecological systems and natural resources important to the nation" which are the expressed purposes of NEPA (42 U.S.C. § 4322) are, the same purposes that the Taylor Grazing Act has been guided by since its en-

actment. Therefore, the Taylor Grazing Act as administered by the BLM provides the "functional equivalent" of the environment impact statement and ought be exempted from its requirement. See *Aberdeen & Rockfish R. Co.* v. *SCRAP,* 422 U.S. 289 (1975); *Portland Cement Association* v. *Ruckelshaus,* 486 F.2d 375 (D.C. Cir. 1973), *cert. denied,* 417 U.S. 921 (1974); *International Harvester Co.* v. *Ruckelshaus,* 478 F.2d 615 (D.C. Cir. 1973); *Environmental Defense Fund, Inc.* v. *Environmental Protection Agency,* 489 F.2d 1247 (D.C. Cir. 1973); *Anaconda* v. *Ruckelshaus,* 482 F.2d 130 (10th Cir. 1973); *Getty Oil Co.* v. *Ruckelshaus,* 467 F.2d 349 (3d Cir. 1972), *cert. denied,* 409 U.S. 1127 (1973).

II.

The Economic Impact of Requiring Environmental Impact Statements Will Be Harmful to the Livestock Industry and Public at Large and Contrary to the Provisions of the Taylor Grazing Act.

In *Calvert Cliff's Coordinating Comm.* v. *United States Atomic Energy Comm'n,* 449 F.2d 1109, 1123 (D.C. Cir. 1971) it was said:

> "NEPA mandates a case-by-case balancing judgment on the part of federal agencies. In each individual case, the particular economic and technical benefits of planned action must be assessed and then weighed against the environmental costs . . . In some cases, the benefits will be great enough to justify a certain quantum of environmental costs; in other cases, they will not be so great and the proposed action may have to be abandoned or significantly altered so as to bring the benefits and costs into a proper balance. The point of the individual balancing analysis is to ensure that with possible alterations, the optimally beneficial action is finally taken.

On balancing the equities in the present case the public concern for the environmental impact statements is minimal relative to costs to be suffered and especially in light of the environmental protection inherent in the Taylor Grazing Act.

"Grazing is recognized as a proper and important use of most federal lands, explicitly so in the case of the Taylor Grazing Act . . ." Clawson and B. Held, The Federal Lands 219 (1957). Indeed, "No other use has been found for most of the land of the Intermountain West." W. Calef, Private Grazing and Public Lands 3 (1960).

The livestock rancher is therefore the dominant economic factor which is initially affected by whatever happens in connection with range lands. It is an industry built around the public lands. In addition to the purpose manifested in the Taylor Grazing Act for protecting the environment, a secondary purpose was the stabilization of the livestock industry (43 U.S.C. § 315). In *Red Canyon Sheep Co.* v. *Ickes,* 98 F.2d 308, 314 (D.C. Cir. 1938) the court stated:

> "[T]he livestock industry of the West is an important source of food supply for the people of the nation. In the arid region of the West Commercial success in the livestock industry requires that sheep and cattle be run upon the open range. This is a matter of common knowledge.

See also Report of the Public Land Law Review Commission, *supra* at 106.

Pursuant to the provisions of the Taylor Grazing Act, 43 U.S.C. § 315(a), the Secretary of Interior through the BLM issues permits to control the use of the range lands and collects grazing fees and lease

rentals which are shared in part with state governments. 43 U.S.C. § 315(i).[1] The control of these permits has resulted in the stabilization of the pattern of livestock ranching and revenue to both federal and state governments. But the balance that has been struck is a volatile one when subjected to changing regulation which affects the economy of the industry.

Public lands play a significant role in the national livestock economy. As the Public Land Law Review Commission found:

> In the first place they are often crucial to individual ranch operations, supplementing the feed of private lands by supplying seasonal grazing. Without the privilege of grazing public lands, many ranches would cease to exist as economic units, or would be forced out of business due to the high cost of substituting other sources of feed. (Report of the Public Land Law Review Commission, *supra* at 105).

Restricting the use of the range lands would also have a devastating economic effect as would any increase in costs incurred to sustain the grazing privilege. "The intermountain range livestock industry depends for existence on a supply of cheap feed. The cheapest feed is the naturally produced, relatively low grade forage of the range lands." W. Calef, Private Grazing and Public Lands, *supra* at 27.

In 1965 the U.S. Department of Agriculture (USDA), Economic Research Service, did a study entitled "Grazing Fees and Permitted Use of Public

[1] In 1974, $19,950,936 was allocated to the western states pursuant to the Taylor Grazing Act. (U.S. Dept. of Interior, Public Land Statistics (1974)).

Rangelands on Income of Western Livestock Ranches". ERS Pamphlet No. 248 (Sept. 1965). The study indicated that in 1960 federal rangelands provided about 18 percent of the total feed units used by cattle and sheep on ranches with grazing permits. This amounted to 24 million animal unit months (AUM).[2]

The USDA further indicated that an increase of 20 cents in fees resulted in a 5.9 percent loss to cattle growers and 8.7 percent loss to sheep growers.[3] This coupled with an already high inflation rate means an even more critical loss to the livestock industry. Further, a reduction in use of 20 percent of the rangelands would result in an income loss of 25 percent to cattle growers and 36 percent to sheep growers. The study also determined that continued increases in fees or reductions in grazing permits would eventually lower the value of the private lands which obtain value as a concomitant of the use of the nearby range lands. As explained,

> "the importance of the permit value to the user can be illustrated by two examples. First, the permits recognized commercial value is evidenced by its acceptance as collateral by lending institutions. Secondly, the forest service and BLM permits currently held by users in Western United States have an estimated value of 343 million.

[2] An animal unit month is a standardized unit of measurement of grazing privileges which represents the privilege of growing one animal for a period of one month. An "animal unit" is a standardized unit of measurement for range livestock which is equivalent to one cow or one horse or five sheep or five goats, all over 6 months of age, U.S. Dept. of Interior (BLM), Public Land Statistics 86-87 (1974).

[3] The current grazing fee per AUM is $1.51 (U.S. Dept. of Interior (BLM), Our Public Lands at 2 (Spring 1976)).

Nielson and Wennergen, *Public Policy and Grazing Fees on Federal Lands: Some Unresolved Issues,* 5 Land and Water L. Rev. 293, 313 (1970).

Reductions in permit use would also serve to force livestock immediately into the market causing a drastic drop in meat prices. This would be followed by a short supply of meat which would raise prices over and above normal price increases creating severe economic hardship on the already burdened consumer as well as reducing food substances in a world with increasing demand. There would also be severe local economic impact.

> Public land forage policies are important to the regional economy. Income resulting from increases in the production and use of public land forage tends to spread through the regional economy rather than be siphoned off for purchases of goods and services from other regions. (Report of the Public Land Law Review Commission, *supra* at 106)

Likewise, then, the reduction of production will have a dramatic, though negative effect upon regional economics. A further factor to be considered is the effect upon local governments:

> [T]he local tax base is extremely important in the less populated areas. If land is taken out of domestic livestock use, whether public land or private, a greater burden is left on the remaining property for the support of local government, schools and the like. McMillan, *Problems in Grazing Use of the Public Lands,* Public Land Policy 107-108 (Foss ed. 1968).

Indirect effects are also exerted by grazing fees which are reinvested in structures and other "improvements"

on the range. (W. Calef, Private Grazing and Public Lands, *supra* at 73). An increase in fees which are partially returned for range use may well result in increased production in the future and thereby alleviate the initial strain of increases in grazing fees. (*See* USDA, ERS Pamphlet No. 248, *supra*). However, fee increases which are utilized only to meet increased management costs will not only cause income losses immediately to stockmen, but will serve to stifle production growth in the future through lack of development of the range. This is already occurring as a result of the District Court ruling in this case. The BLM has announced that it does not have funds or manpower to issue permits for range improvements due to demands of the court that it complete environmental impact statements over the next twelve years. 41 The New Mexico Stockman 12 (May 1976). Thus the requirement of environmental impact statements is obtaining exactly the opposite result that NEPA and the Taylor Grazing Act intended. In fact, improvement of the range is halted, directly contrary to the provisions of the Taylor Grazing Act. 43 U.S.C. § 315(a).

The U.S.D.A. has determined that:

> Rangeland, the largest single category of land in the United States, has no alternative to contributing to food for man other than by way of grazing animals. *Opportunities to Increase Red Meat Production from Ranges of the United States,* June 1974 at iii.

Grazing then is the "best use" of the range land; it is best for the economy, ecology and as a food source for the world. The continued grazing of public lands can only be beneficial to the nation. It represents the

maintenance of the economic and environmental status quo. Restricting grazing lands, increasing management costs and requiring impact statement only aggravate already severe economic pressures to the livestock industry, the local governments and ultimately, the consumers. The 4.23 million dollar increases required for impact statements each year must be paid for by increased grazing fees or appropriations which stock growers and consumers must bear; and any withholding of grazing permits results in lost economics to individual ranchers and higher prices once again for consumers. This needless cost could be saved by exempting the Taylor Grazing Act from NEPA. NEPA's function is to save the environment. In this instance it is acting as a hindrance to the progress both it and the Taylor Grazing Act are required to make.

CONCLUSION

For the reasons stated it is respectfully submitted that the Petition for Writ of Certiorari should be granted.

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